

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 268

Citations Affected: IC 16-18-2; IC 16-21-3-4; IC 16-34.5; IC 20-12-29.7; IC 25-22.5-8-5; IC 35-46-5-2; IC 35-46-5-3.

Synopsis: Cloning. Conference committee report for ESB 268. Declares that human cloning is against public policy. Prohibits the state, a state educational institution, or a political subdivision of the state from using resources to knowingly participate in human cloning activities. Requires the state department of health to revoke the license of a hospital that knowingly allows human cloning activities. Requires the medical licensing board to revoke the license of a physician who knowingly participates in human cloning. Allows Indiana University to establish an adult stem cell research center. Defines adult stem cell and fetal stem cell and provides that research on these types of stem cells is not included in the definition of cloning. Makes: (1) the unlawful participation in; (2) the implantation of or the attempt to implant the product of; and (3) the shipment or receipt of the product of; human cloning a Class D felony. Makes the purchase or sale of a human ovum, zygote, embryo, or fetus a Class C felony. Requires the state department of health to report to the legislative council concerning the feasibility of the state establishing an embryo adoption bank. **(This conference committee report adds: (1) an exemption from the offense of unlawful transfer of a human organism for transfer of an amount for earnings lost due to absence from employment, travel, and recovery time in an amount not to exceed \$2500; and (2) the requirement that the state department of health report to the legislative council concerning the feasibility of the state establishing an embryo adoption bank.)**

Effective: Upon passage; July 1, 2005.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 268 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 16-18-2-5.5 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2005]: Sec. 5.5. "Adult stem cell" means an
- 5 undifferentiated cell that:
- 6 (1) is found in a differentiated tissue;
- 7 (2) is renewable; and
- 8 (3) yields specialized cell types with certain limitations of the
- 9 tissue from which it originated.
- 10 SECTION 2. IC 16-18-2-56.5 IS ADDED TO THE INDIANA
- 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 12 [EFFECTIVE UPON PASSAGE]: Sec. 56.5. (a) "Cloning" means the
- 13 use of asexual reproduction to create or grow a human embryo
- 14 from a single cell or cells of a genetically identical human.
- 15 (b) The term does not include:
- 16 (1) a treatment or procedure to enhance human reproductive
- 17 capability through the manipulation of human oocytes or
- 18 embryos, including the following:
- 19 (A) In vitro fertilization.
- 20 (B) Gamete intrafallopian transfer.
- 21 (C) Zygote intrafallopian transfer; or
- 22 (2) the following types of stem cell research:

1 (A) Adult stem cell.

2 (B) Fetal stem cell, as long as the biological parent has given
3 written consent for the use of the fetal stem cells.

4 (C) Embryonic stem cells from lines that are permissible for
5 use under applicable federal law.

6 SECTION 3. IC 16-18-2-128.5 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2005]: **Sec. 128.5. (a) "Fetal stem cell" means**
9 **any of the following types of stem cells taken from a fetus that was**
10 **either miscarried or stillborn from any of the following sources:**

11 (1) Placenta.

12 (2) Umbilical cord.

13 (3) Amniotic fluid.

14 (4) Fetal tissue.

15 (b) The term does not include any cells that are taken as the
16 result of an abortion unless the cells are permissible for use under
17 applicable federal law.

18 SECTION 4. IC 16-18-2-183.5 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE UPON PASSAGE]: **Sec. 183.5. "Human embryo"**
21 **means a human egg cell with a full genetic composition capable of**
22 **differentiating and maturing into a complete human being.**

23 SECTION 5. IC 16-21-3-4 IS ADDED TO THE INDIANA CODE
24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
25 UPON PASSAGE]: **Sec. 4. Notwithstanding section 1 of this**
26 **chapter, the state department shall revoke the license of a hospital**
27 **licensed under this article if, after appropriate notice and an**
28 **opportunity for a hearing, the state health commissioner proves by**
29 **a preponderance of the evidence that the hospital:**

30 (1) knowingly allows the hospital's facilities to be used for
31 cloning or attempted cloning; or

32 (2) knowingly allows the hospital's employees, in the course of
33 the employee's employment, to participate in cloning or
34 attempted cloning.

35 SECTION 6. IC 16-34.5 IS ADDED TO THE INDIANA CODE AS
36 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
37 PASSAGE]:

38 **ARTICLE 34.5. CLONING**

39 **Chapter 1. Public Policy Against Human Cloning**

40 **Sec. 1. The general assembly declares that human cloning is**
41 **against public policy.**

42 **Sec. 2. The state, a state educational institution (as defined in**
43 **IC 20-12-0.5-1), or a political subdivision of the state may not use**
44 **public funds, facilities, or employees to knowingly participate in**
45 **cloning or attempted cloning.**

46 SECTION 7. IC 20-12-29.7 IS ADDED TO THE INDIANA CODE
47 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
48 JULY 1, 2005]:

49 **Chapter 29.7. Adult Stem Cell Research Center**

50 **Sec. 1. As used in this chapter, "center" refers to an adult stem**
51 **cell research center established under section 2 of this chapter to**

1 carry out the duties specified by this chapter.

2 Sec. 2. The board of trustees of Indiana University may establish
3 an adult stem cell research center.

4 Sec. 3. The center must be under the administration of the school
5 of medicine.

6 Sec. 4. The dean of the school of medicine shall appoint the
7 director of the center.

8 Sec. 5. The board of trustees of Indiana University may receive,
9 accept, hold, and apply donations, bequests of funds, property,
10 gifts, and other income in support of the center's purposes.

11 Sec. 6. The center shall:

12 (1) conduct a thorough and comprehensive needs assessment of
13 the state of science of adult stem cell research; and

14 (2) develop strategies to move Indiana University into the
15 forefront of the nation in its capacity to attract and retain adult
16 stem cell researchers.

17 SECTION 8. IC 25-22.5-8-5 IS ADDED TO THE INDIANA CODE
18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
19 UPON PASSAGE]: Sec. 5. (a) As used in this section, "cloning" has
20 the meaning set forth in IC 16-18-2-56.5.

21 (b) Notwithstanding IC 25-1-9, the board shall revoke the license
22 of a physician if, after appropriate notice and an opportunity for
23 a hearing, the attorney general proves by a preponderance of the
24 evidence that the physician knowingly participated in cloning or
25 attempted cloning.

26 SECTION 9. IC 35-46-5-2 IS ADDED TO THE INDIANA CODE
27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
28 UPON PASSAGE]: Sec. 2. (a) This section does not apply to in vitro
29 fertilization.

30 (b) As used in this section, "cloning" has the meaning set forth in
31 IC 16-18-2-56.5.

32 (c) A person who knowingly or intentionally:

33 (1) participates in cloning;

34 (2) implants or attempts to implant a cloned human embryo
35 into a uterine environment to initiate a pregnancy; or

36 (3) ships or receives a cloned human embryo;

37 commits unlawful participation in human cloning, a Class D felony.

38 SECTION 10. IC 35-46-5-3 IS ADDED TO THE INDIANA CODE
39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
40 UPON PASSAGE]: Sec. 3. (a) A person who knowingly or
41 intentionally purchases or sells a human ovum, zygote, embryo, or
42 fetus commits unlawful transfer of a human organism, a Class C
43 felony.

44 (b) This section does not apply to the following:

45 (1) The transfer or receipt of an amount to a woman donor of
46 an ovum for:

47 (A) earnings lost due to absence from employment;

48 (B) travel expenses;

49 (C) hospital expenses;

50 (D) medical expenses; and

51 (E) recovery time in an amount not to exceed two thousand

1 **five hundred dollars (\$2,500);**
 2 **concerning a treatment or procedure to enhance human**
 3 **reproductive capability through the manipulation of human**
 4 **oocytes or embryos, including in vitro fertilization, gamete**
 5 **intrafallopian transfer, or zygote intrafallopian transfer.**

6 **(2) The following types of stem cell research:**

7 **(A) Adult stem cell.**

8 **(B) Fetal stem cell, as long as the biological parent has given**
 9 **written consent for the use of the fetal stem cells.**

10 **SECTION 11. [EFFECTIVE UPON PASSAGE] (a) As used in this**
 11 **SECTION, "state department" refers to the state department of**
 12 **health.**

13 **(b) Before November 1, 2005, the state department shall**
 14 **investigate and report to the legislative council in an electronic**
 15 **format under IC 5-14-6 the following information:**

16 **(1) The feasibility of the state creating an embryo adoption**
 17 **bank in which embryos in the state would not be destroyed but**
 18 **would be transferred and stored at the state's embryo adoption**
 19 **bank.**

20 **(2) The costs of creating an embryo adoption bank.**

21 **(3) The legal implications and requirements for the adoption of**
 22 **an embryo.**

23 **(4) Any other relevant information concerning the state**
 24 **creating and embryo adoption bank.**

25 **(c) This SECTION expires December 31, 2005.**

26 **SECTION 12. An emergency is declared for this act.**

(Reference is to ESB 268 as printed March 23, 2005.)

Conference Committee Report
on
Engrossed Senate Bill 268

Signed by:

Senator Miller
Chairperson

Representative Brown T

Senator Craycraft

Representative Brown C

Senate Conferees

House Conferees